

BRILL (N.E.)

Reprinted from
THE NEW YORK MEDICAL EXAMINER
of February, 1892.

Brill

Some
Medico=Legal Reflections on Bomb=Throwing
and Responsibility.



Inaugural Address delivered on January 11, 1892, before the
Society of Medical Jurisprudence, by the President,
N. E. BRILL, M.A., M.D.

Reprinted from
THE NEW YORK MEDICAL EXAMINER
of February, 1892.

Some
Medico=Legal Reflections on Bomb=Throwing
and Responsibility.



Inaugural Address delivered on January 11, 1892, before the
Society of Medical Jurisprudence, by the President,
N. E. BRILL, M.A., M.D.

Some Medico=Legal Reflections on Bomb=Throwing and Responsibility.

Inaugural Address delivered on January 11, 1892, before the Society
of Medical Jurisprudence, by the President,

N. E. BRILL, M.A., M.D.

Gentlemen: For the honor which you have bestowed upon me in electing me to the office of President of the Society of Medical Jurisprudence accept my thanks. I feel that the result of the exercise of your franchise is rather an expression of your good will and kindly regard toward me than a tribute to personal merit; for you might have found many others of my profession in your midst who are more deserving of the honor than myself. However, your will being that I shall preside over your deliberations, and that I shall lead you into the many still unexplored fields of the science of medical jurisprudence, I feel the many shortcomings which you will find in me more keenly than otherwise. I hope, however, with your indulgence, that these may be partly overcome.

The high office to which you have elevated me by election I regard as an important trust which, even at the beginning of my work therein, is disturbed by a factor which must be viewed as most inimical. That factor is this: There is a general stagnation on this continent in the domain of the science whose cultivation is one of the objects of this Society—a body which counts among its members the highest medical officers of the Army; one who in his life was the highest authority on that most important branch of surgery which is the common domain of law and medicine, viz.: the results of railway accidents. Need I mention the names of Frank Hastings Hamilton and of Gen. Wm. A. Hammond? Law is equally well represented by the most prominent luminaries—Horace Wood, Judge Willard Bartlett, and the concise and clear McAdam, your last president. The attainments of all the members

and the higher standing of those mentioned make this Society the foremost in this country of all of those devoted to the subject of medical jurisprudence.

The cause of the stagnation, however, is to be found in the fact that a general indifference to the important duties of citizenship is characteristic of this republic.

The keen and sharp struggle for existence, the lively competition in trade, resulting in the speedy accumulation by a few of wealth, make the field of money-getting the most cultivated. Science thus loses many votaries, whose endeavors would have brought them more mental satisfaction than would the accumulation of wealth, which can only result in an arrest of higher intellectual development.

Thus, to make this Society successful, to elevate it to a still higher plane than it has attained, I need not only your interest, but your active co-operation. A little more enthusiasm on your part, a small sacrifice of some of your comfort, a greater devotion to the subject which engages your attention, will have an important effect on your membership and attendance.

For myself, I can say that you will not find me wanting in these endeavors, and, while having no expectation of surpassing the more than successful results of my predecessors, there shall be nothing lacking in the attempt.

Compared with the cessation of labor in the pursuit of medico-legal knowledge on this side of the Atlantic, the busy and constant investigation on the other side offers a more than strange contrast. Some years ago, in the presentation of a report on medico-forensic progress, the cause for this difference was explained by the fundamental differences between the spirit of the Roman and the English Common Law, by the difference in character of the races, and by the differences in the forms of government, whereby it was shown that a paternal government assisted and directed the thoughts of its subjects.

It may interest those of you who have not the opportunities to become familiar with the work in this field to listen to an abstract of a few of the contributions* which have been made during the past year. I need not say that the greatest part of the work is done in Germany, France, Italy and Austria. The same factors operating in the British Islands as in this country

* These have been directly transcribed from the excellent review of Hofman on Medical Jurisprudence in Virchow Hirsch's *Jahresbericht der gesamt. Medicin für 1890*.

account for the dearth of contributions from that source.

The question of the right of courts to call upon physicians for expert testimony and the compulsion of the latter to give that testimony have been exciting the physicians of France, as the following affair, which has become historical in that country, illustrates. The discussion has been carried on by individuals, medical societies and jurists to such an extent that the occasion which called it forth has become known as the "Rodez Affair." It relates to a number of physicians in Rodez who refused to conduct the autopsy on a girl who had disappeared three days before the discovery of the corpse. The ground of their refusal was that the law does not definitely state that physicians are bound to do such service. They were indicted and each was sentenced by the court to pay six francs and the amount of costs, the court holding that such duty is indirectly contained in the statute, and that the function of the physician should consist not only in healing and curing, but also in serving as an assistant to the court in its investigations.

As a result of this affair the subject was brought up before the Société de Médecine Légale in Paris, which, after thorough discussion, was referred to a committee for an opinion. Horteloup, as chairman, gives the following decision: He explains in his report the legal decree existing at this time in reference to the subject, mentions other similar refusals on the part of physicians, and concludes that the medical profession are required, in conformity with the existing laws, to obey a subpoena to a medico-legal investigation in only such cases where a "flagrant delit" occurs, or where a crime approaches such in degree. Horteloup asks further for an increase in medico-legal fees, and demands on the part of court physicians special medico-legal qualifications, examinations and diplomas.

In his essay upon the question of the right of the court to call upon physicians for services, Jaumes remarks that the affair at this moment is at a crisis, and that the whole world understands that a change must occur in the laws in question—that is, an abrogation of the statute referring to the compulsory attendance and work imposed upon all physicians. He, together with Vigie, the Professor of the Law Faculty, is of the opinion that Article 475, Section 2, of the French Penal Code refers only to events which place the State in danger, which would, of course, demand urgent and immediate attention, in which case any individual may be required by law to

give assistance; that it is a mistaken construction of the law to derive from it a universal right of the requisition of the services of physicians in medico-legal investigations. The opinion commonly entertained that all physicians possess the knowledge necessary to such investigations is totally wrong. Should a physician, however, who does not possess such knowledge be forced to this work, serious mistakes, or at least unreliable opinions, must result. By means of the telegraph and other speedy instruments of communication, even in urgent cases, a trained expert can be got at the spot in a very short time, and the short delay to which the investigation is put is in its results not so disastrous as an inexact or false opinion on the part of the physician who is unqualified for medico-legal work. Jaumes urges, therefore, a repeal of the compulsory measure, which has heretofore been forced upon physicians, although it had no legal foundation, and the substitution of a trained body of court physicians or experts, to whom such cases as refer to their specialties may be transferred.

The whole question has been definitely settled by a final decision, for the Appellate Court, to which the affair had been carried, returned a judgment affirming that of the lower court, expressing the opinion that a "flagrant delit" had been committed, in which case every physician is bound by law to give medico-legal service.

A similar occurrence was the occasion of the decision of the court at Neuville, where two physicians were fined six francs for refusing to make an autopsy on a drowned body. The court held that there was nothing to prevent physicians from attempting to bring about a reform or repeal of the law, but that, as long as the law existed, they were compelled to bow down to it and fulfill its decrees.

The Society has cause to congratulate itself upon the fulfillment of the position which it took in reference to legislation for a change in the method of inflicting the death penalty. Although it is conceded by all who have any knowledge concerning the various methods of putting criminals convicted of capital crimes to death that the guillotine is the safest and most expeditious means, yet in the method adopted by this State we have made a great step forward.

Putting to death by electricity is far superior to hanging in every feature. It is, as far as medical science can tell, attended by instantaneous and absolute loss of consciousness and of

sensation on the part of the executed. The writer has been in the position to see various methods applied; he has witnessed death inflicted by hanging, by shooting, and was an official witness to the recent execution of Loppy by electricity. There is no doubt in his mind that the last method answers the most humane requirements. He has not changed the opinion which he has heretofore held, that the simplest method is the best, other things being equal. It is only in this respect that the guillotine is superior to the electric chair. This was the position which he took before the Senate Committee in Albany in the winter of 1884 as your accredited representative in making, he is glad for your sake to say, a successful attempt in bringing about a change from that most barbarous method of hanging criminals. Although he favored the guillotine as the simplest and most perfect instrument for its purpose, he did not fail to present the possible perfection in electrical devices which would make the method of putting to death by electricity a most efficient one.

With the voltage produced heretofore by the machines employed at the official executions it has been found that a current passed through the individual for fifty seconds has been always fatal. This length of time has not been exceeded in the execution of any of the criminals thus far killed by the State. With a higher voltage death will be still more quickly produced.

The mechanism of the guillotine is, of course, simpler, and requires fewer individuals to assist in its operation. It takes but three or four seconds from the time the lever is pulled until the head of the condemned is severed. The difference in time and the diminished amount of the probability of a failure in the operation of the instrument, by reason of the greater simplicity of construction of its mechanism and of fewer persons required to operate it, are the favorable features in the guillotine which make that instrument surer and more expeditious than the electric dynamo.

I believe there is little probability of any method being produced which will be an improvement upon either of these two.

It would be cruel to speak of any new method endorsing it as an experimental one; for the medical profession, and, it goes without saying, the legal profession, would regard even the slightest margin of experimental error in connection with that

human suffering, which is inseparable from the extreme penalty of the law, as inexcusable.

The method is no longer experimental. Its success is established, and has exceeded my most sanguine expectations. The experience derived from the past electrocutions will be utilizable in the future.

The only suggestions which I can offer are in the way of a modification of some of the details. Dr. C. F. MacDonald, who was one of the officials at all the executions, coincides with me in these. A device, which might keep the surface of the electrodes constantly wetted with water, to prevent charring of the sponge, might be applied to the electrodes. The substitution of a dynamo, manufactured for the express purpose of securing a minimum of 2,500 volts—which cannot be elicited by the commercial dynamos now employed by the State—is desirable.

With the adoption of these changes, there could not be a better means employed by any State in carrying out the law of capital punishment, excluding, perhaps, the guillotine.

The present method makes an execution a dignified, solemn, quiet and orderly procedure, such as the administration of every legal act should be. The vulgar, disgusting and revolting accompaniments of an official hanging are now relegated to history.

I can confidently predict, therefore, that the other States of this Union will follow New York in the adoption of electrocution, and that the same will be extended to the majority of countries of the civilized world.

In reference to the wisdom of the other part of the new statute forbidding newspapers to publish the details of such executions, you will probably gather more information from the debate which will ensue this winter, as the result of an attempt by the legislature to repeal this feature of the act, than I can give you. It is my opinion that a great mistake will be made if this attempt be successful; for I believe that, if capital punishment is to act as a deterrent to crime, its performance must be surrounded by all possible solemnity and mystery, to make it efficient.

The day for making martyrs of criminals convicted for capital offenses is past. And so long as the tone of the press is so low, so degrading and demeaning as to pander to the morbid desire of the day for sensationalism, so long should the press be excluded from such executions. Why it should gratify this

desire, when it has such an immense power to direct a normal education of the public, is one of the enigmas of the present time. How it could have the conscience to publish such mendacious details of the last executions, details which were manufactured "out of the entire cloth," it alone can explain! It was certainly not a worthy motive, not one which would harmonize with its assumed reputation for honesty, nor with its self-created position as supervisor of public morals.

There is one reflection, though, which I ought to add in justice to the better element in the press. There is this to say in extenuation: The method being an innovation, and a departure from all other methods, its application should have been viewed by an accredited representative of the press, so that the public might have been assured of the wisdom of the innovation. The method has certainly no reason to shun the strictest investigation and need not be ashamed to have its successful application revealed. Perhaps it would have been wiser on the part of the commission to have refrained from recommending the law imposing silence on the press until the people had become convinced of the success of the new method, of which it would have been, even after the first few executions. The higher grade of journalists would have voluntarily refrained, after such knowledge had been promulgated, from harping upon the details. It would then have been time to consider what means should be taken to check the indecent element from harrowing the public with sensational details and exciting a morbid sympathy for the criminal.

Do not misunderstand me, therefore. I believe that the law is a good one, but that there may be a question as to the wisdom of having enacted the part relating to the press before the application of the method of putting to death by electricity had been thoroughly reviewed and discussed. As I said before, not only may the Society feel proud, but the State may be congratulated for having introduced to the world a humanitarian device for killing its criminals, which answers all the requirements which the science of medicine could suggest or devise.

The Anglo-Saxon has, when aroused, a contempt for suffering and death. These traits are, under less provocative conditions, well demonstrated by his pugnacity and combativeness, and account for the fact that he still persists in revenging himself upon the culprit who has committed a capital crime by inflicting death upon him with one of the most inhumane methods that human ingenuity could devise.

The English law insists upon its prey; and, though it gives the prisoner the benefit of a reasonable doubt, it, in cases where insanity is pleaded as a defense, not only insists upon the individual who enters this plea, weakened in all his mental faculties as he may be, proving his condition to individuals who are supposed to have all their mental powers intact and unimpaired, but it also insists upon his proving his *irresponsibility* in relation to his knowledge of the quality of the act and that of right and wrong.

So much has been written in reference to the falsity of this test of insanity that it is useless for me to reiterate the grounds which make its retention in the common law a standing disgrace to enlightened and intelligent minds. It certainly is not in the direction of the modern tendency toward humanitarianism.

Almost all continental countries have fallen in line toward the progressive and beneficent principle of adopting a test of responsibility which shall harmonize with both the medical and legal aspects of insanity.

Italy has been the most recent country—to its credit may it be said—which has utilized the teachings of medical science in this direction and adopted the best features of the German and French tests, in which the determination of the freedom of the will in the insane is made the basis of a conclusion as to their responsibility. This has been the result of patient and laborious investigation on the part of the Italian psychiatrists, who have in the last few years made an enviable reputation in the field of the medical jurisprudence of insanity.

The old Roman law not only recognized the irresponsibility of the insane, but took cognizance of it as an excuse for the commission of insane criminal acts.

The new Italian penal code has the following provisions:†

Article 46. That individual is not punishable who at the time in which he committed the act was in that condition of mental weakness (*infermità di mente*) which destroyed his consciousness or the freedom of will in reference to his own acts. Nevertheless, the magistrate, should he consider the discharge of the culprit to be dangerous, may commit him to the properly constituted authorities.

Proal, ‡ commenting on this subject in the *Annales Medico-Psychologiques*, expresses the following comprehensive views,

† Virchow-Hirsch's *Jahresbericht für 1890*.

‡ *Loc. cit.*

and coming, as they do, from the Judge of the Court of Appeals, which honorable position he holds, should have double weight in your consideration. He says that the view of many psychiatrists, that the plea of irresponsibility is accepted in cases of the "partial insane" only in reference to those acts which relate to their special delusion, is based upon a mistaken construction of the law. For Article 64 of the Code Pénal says:

"Il n'y a ni crime ni delit si le prévenu était aliéné au moment de l'action."

The insane are hence not responsible, and the law differentiates neither form nor degree of insanity. One ought not, however, to confound this disease with moral ruin and physical degradation which may be produced by vice, excesses and drunkenness. If physicians would preserve their legitimate position before courts of justice, they should avoid exaggerations of statement and paradoxical theories. For instance, irresponsibility should not be accepted as a plea for an alcoholist, because his moral and intellectual state is the logical consequence of a series of moral defects and the natural result of his voluntarily acquired vicious habits.

The Italians, according to the provision of their new code, commit all those cases in which there is a doubt as to the responsibility of the individual to an institution for further observation, or to an insane asylum until the court has definitely decided upon the question.

America should free itself from the trammels of the English law in this matter, and adopt the humane principles of the continental countries, where law is trying to keep pace with the progress of medical science. There must be a condition between full responsibility and irresponsibility, and anything between those two conditions should be considered by juries as more than a reasonable doubt, and should serve in favor of the accused.

The community was recently startled by one of those horrifying acts, which appear periodically, excite a short-lived commotion at the time of their perpetration, become imitated by a whole army of unbalanced individuals, and survive in the memory of the people but a day. It is, indeed, a curious phenomenon that the public should be so singularly lacking in memory as to quickly forget events of great importance.

The attempt to kill a wealthy citizen by means of one of the most powerful explosives known is suggestive. Viewed en-

tirely outside of the domain of its social signification, it is indicative of some features which it were well to bear in mind.

Fortunately, history preserves in its indelible pages a record of those events which are so elusive to human memory. Throwing of bombs, exploding infernal machines, gunpowder plots, dynamite horrors, all find many a page in its many pages of narrations of treason and treachery, rebellions and revolutions, calamities and holocausts. Act upon act is heaped up into a mass whose size confronts us with the evidence, which compels us to give more than a fleeting thought to such outrages and disasters. Who knows but what some of the mysteries of the sea, such as the loss of the "Boston," the destruction and sinking of the "Oregon," in which the great part of the side of the vessel was blown into atoms, may not have been the work of some individual or individuals, who imitated the means which that monster in human guise, Thomas, utilized to destroy the steamer "Moselle"? The details of this last crime were scarcely approached in horror by any similar act in ancient or modern times. An infernal machine was exploded on the dock at Bremerhaven, whilst the steamer was taking on its freight, a short time before the hour for its departure on its transatlantic voyage. The vessel was filled with relatives and friends of the voyagers who were saying their tearful adieus. The dock was alive with busy longshoremen placing the vessel's freight in the hold for transportation, when a truck, loaded among other wares with an ordinary looking chest, was driven hurriedly to the wharf by some poor unsuspecting workman, who little thought of his impending doom. The contents of the wagon were speedily and rudely deposited on the dock until it came to the turn of the chest, which contained a curious and well adjusted time mechanism. The shock which the box sustained by being tossed among the other freight caused the contents to be exploded with a detonation and force which hurled everybody and everything about in all directions. There was no time for consideration, no opportunity for escape. The noise of the explosion, the shrieks of the maimed and dying, the sinking of a tender moored between the "Moselle" and the shore, told that a great calamity had occurred. Over three hundred persons were either killed or injured. Some of these were blown into pieces and no distinguishable trace of them left by which they might be identified.

It was subsequently discovered that the criminal, Thomas, had a most intricate mechanism made by an artisan mechanic, whom he deceived as to its purpose. This he placed in the chest and arranged its mechanism so that it would cause the explosive contents to be fired at the end of eight days, while the vessel was at sea, when the loss of life would have been still more terrible.

The agents of such crimes are not only to be found among the poor and lowly, but among the rich and high in social standing. The murder§ of Darnley, Earl of Lennox, kinsman and husband of Mary, Queen of Scots, at her instigation, it is said, is an example of this kind. Lord Darnley, after being refused his demand to the crown matrimonial as the husband of Mary, joined Murray and the forces opposed to the Queen, and, after the murder of Rizzio and the success of the allies against Holyrood, was cajoled by his wife to assist her to escape her promise of binding herself to secure the pardon of her opponents. He assisted her in this and to flee to Edinburgh, and was permitted to protest his own innocence, and to denounce the allies with whom he had been associated. This brought upon him a well merited opprobrium and detestation of both parties alike. The subsequent elevation of James Hepburn, Earl of Bothwell, in Mary's promiscuous favor decided the inglorious Darnley's fate, who, after Mary succeeded in obtaining a divorce from him, was arrested, although it is reported that a previous attempt at poisoning had been made upon him. However, he was removed to Glasgow, where he was visited by the Queen, who proposed that he be removed to Craigmillar Castle, where he could recuperate from his illness following the alleged attempt at poisoning. This was not carried out, but he was taken to a lodging which was near the outskirts of Edinburgh, where, on February 9, 1567, after Mary took leave of him, an explosion occurred which shook the very foundations of the town, and which tore to pieces the building which was to have been his shelter. He must have escaped the fatal effects of the explosion, for on the following morning he and a page were found in an adjoining garden, strangled to death.

Need I mention the history of Guy Fawkes and the gunpowder plot; the failure to blow up the House of Parliament,

§ *Encyclopedia Britannica.*

which made the 5th of November, 1605, memorable to every British school-boy? The day was made a holiday for ever by an Act which was not repealed for over two centuries. In this affair the explosives, consisting of barrels of gunpowder covered with cobblestones and all kinds of pieces of iron, concealed under a covering of wood, had been prepared in a vault under the House of Lords. It was the plan of the conspirators to notify the Catholic members of the house not to attend on the 5th of November, which led to the apprehension of Fawkes, who was a tool of Catesby, of the latter and his fellow conspirators, and their subsequent execution by hanging, drawing and quartering.

It is but a few years since a more successful attempt at the destruction of this great monument of British liberty occurred. It is useless to give more than a passing reference to the explosion of dynamite, at the hands of the Fenians, in 1883, in the House of Parliament, which raised such a commotion among Englishmen, and which only added to the stringent laws which they placed over Ireland, and which removed still further the hope of that country of obtaining Home Rule. It was likewise the intention of the revolutionists to destroy the Tower and London Bridge.

In Germany the attempt at the destruction of the Niederwald Denkmal, which had been undermined and the mines already charged with explosives when the plot was discovered, which would have killed and wounded thousands of those who were attending a celebration at the monument, makes this crime peculiarly atrocious.

France likewise has her tale of woe to narrate in the attempts upon the life of Napoleon III. First, in the horror of the effects and in the destruction which it produced, is the attempt on the part of Orsini. This deluded patriot regarded the French emperor as the obstacle to Italian independence, and, under this belief, he made his way to Paris to assassinate Napoleon. His previous life had been a constant struggle for the assertion of Italian liberty. He was one of Mazzini's most active agents, having been a deputy to the Roman Parliament. His revolutionary projects led to his arrest not only at Rome, where he was sentenced to the galleys for life and subsequently pardoned on the accession of Pope Pius IX., but he was imprisoned at Mantua while under a secret mission to Hungary as an agent of Mazzini. He escaped from his cell by sawing through the

bars, an account of which he published under the title of "Austrian Prisons in Italy."

On his arrival in Paris he awaited his opportunity, and exploded three bombs in front of the carriage of the emperor and empress while they were on their way returning from the opera. The destruction was terrific, the emperor and empress escaping with insignificant scratches, although the hat of the former was pierced by a projectile and the empress's robe was stained with blood. One hundred and sixty innocent individuals were either killed or wounded.

It is a peculiar fact that the object of the vast majority of crimes of this nature has not been attained. There seems to be a fate which directs explosives from their mission and which brings about a lack of success in accomplishing the main object of the crime. The innocent bystanders are the ones who suffer. Orsini did not succeed in his object, neither did Thomas accomplish his purpose. Russell Sage was not killed, and it was not until after many attempts (six in all) that Alexander II. finally succumbed to a successful one at the hands of Ryszkow, who propelled the fatal explosive agent which destroyed the life of the Czar of Russia. Neither did Fieschi, the chief conspirator in the attempt on the life of Louis Philippe, succeed with his plot in July, 1835. The escape of the king and the princes on this occasion was indeed a miracle. The explosive implement in this affair was a series of twenty gun-barrels so arranged that they could be simultaneously discharged; they were loaded with all sorts of projectiles. During the review which was held by the king, and as he was riding with his three sons and staff along the Boulevard, the explosions occurred one after the other, one ball grazing the king's forehead, his horse being killed underneath him. Fieschi himself was wounded and failed to escape, being thus reserved for the justice of the law. He was deservedly dispatched, with his accomplices, by the guillotine.

In fact, almost every country has some horror of this kind to narrate. In Russia the explosion in the Winter Palace caused the death of sixty of the Preobajenski Regiment. One of Spain's noted cathedrals was recently the victim of a villain's wrath, a dynamite bomb being therein exploded with fatal effect upon the worshippers. Austria almost lost her Emperor Franz Josef in an explosion near Reisenbach, which occurred a little too soon to accomplish the end of the fiend who planned

it, the train which carried the emperor having been delayed; otherwise the three bombs, with time fuses set, would have put a great number of the Courts of Europe in mourning.

It is remarkable that this country, differing so widely in its government from the effete monarchies of Europe, possessing most liberal institutions, and offering not only an asylum for the oppressed, but placing in the hands of every person, however modest his position in life may be, great opportunities for obtaining the livelihood which may have been denied him in his fatherland, should have been the seat of a Haymarket disaster.

The condition of the people in some of the countries of Europe, the indifference of many of the rulers to their wants, might invite on the part of some fanatic the commission of some terrible act; but it was not to be expected that the United States should be a sufferer at the hands of the discontents in Chicago.

In the same manner that crimes of this kind are the result of so many factors which relate to the perverted moral sphere, the passions which called them forth may be the agents of inducing a failure of the designed plans. Indeed, failures are more numerous than successes in this field of criminality. As an illustration of this I need only cite the failure of the plot on the Niederwald Denkmal, where, at the last moment, remorse and the perception of the enormity of the crime to be perpetrated induced one of the conspirators to cut the wire which was to conduct the electric spark which would liberate the fatal force.

It was the fear that a premature explosion would occur that induced the scullion, who had placed an infernal machine in the dining room car adjoining that in which the present Czar of Russia was traveling, to reverse the direction of the machine, which produced the disaster at Borki on October 17, 1888. This scullion, a boy, was supposed to have been killed by the machine which he had been instrumental in placing. It was not until a few days ago that he was discovered, and after his arrest he confessed that the bomb having been properly directed at first, he, through fear and remorse, had changed its position so that the exploding force would be directed downward. It was due to this that the catastrophe resulted otherwise than was intended.

It is not our purpose to inquire into the motive of these vari-

ous crimes against law and nature, as they may be readily found in the passions of man or in his mental alienation. It was rather with the view of pointing out the causes, of indicating the various individual factors, which in their aggregation culminate in such acts, that I have chosen this topic as a part of this inaugural address.

The serious feature of all these crimes, no matter what the motives might have been which occasioned them, is this: that, whether the act be successful or not successful, the quality of the crime has an influence on weak minds which cause them to imitate it.

How voluminous is the proof to this proposition! Have you read a newspaper during any day of the past few weeks and not found an instance where some individual followed the method of the person who visited Russell Sage's office with such direful results? Were there not more than a few who, like Odium, jumped from the Brooklyn Bridge? Reflect upon the number who threw themselves from the London Monument!

Especially among suicides is imitation of unusual and startling methods prevalent; and not only this, but the imitation extends to the very act itself. It is for this reason that self-destruction is spoken of as being epidemic at times. When the first successful act occurred from the Column Vendome in Paris a number immediately followed. The preference for this method was so well established among Parisians that it necessitated the passage of an ordinance forbidding people from ascending this magnificent monument of French art. In fact, the more sensational the method the greater following it has.

Human progress, with all its advantages, is attended by complimentary factors which not only tend to check a too rapid advancement, but which too often turn into an evil what has been a result of an evolution for good. In fact, this is so well recognized that a pessimist might curse the very fact of progress. It certainly can find no support from the moral point of view which the ancients had, and certainly not from the one which underlies our common law and the rights of individuals, and even that which underlies martial law, for the deadly torpedo and the powerful explosive shell are not propelled against opponents' vessels and fortresses except in *statu belli*—in other words, after fair warning.

Hence, although the evolution of explosives has been probably for the good of mankind, we must not fail to remember that it will increase the death rate of those who will have to pay the penalty for such evolution. Of course the power for harm is correspondingly and commensurately increased, and the very nature of the force is apt to place it in the hands of the embittered and of the coward, or at the disposition of some perversely calculating lunatic who knows all its properties as well as he knows the histories of the individuals who form part of his delusive beliefs. He is well acquainted with the fact that a mere deposition of a material like dynamite in certain situations is bound to encounter the necessary concussion which will liberate its death-dealing energy.

Even the unsuspecting and guileless may be utilized by them as an unknowing agent for their base purposes or morbid projects. How readily alike could the honest, skillful artisan or the scientific mechanic be employed to innocently place his art and knowledge at the disposal of such creatures for the purpose of constructing a mechanism, which, at a certain fixed time, shall liberate an explosive force which shall accomplish the most ignoble purposes which a man—if we may call such a living thing a man—may conceive; I say deliberately, if we may call such a thing a man, sane or insane; for just as there is some truth in the epigram, "*In Vino Veritas*," so is this a fact with very few exceptions: that seldom does a good lunatic become an intrinsic scoundrel and fiend. The moral nature of the lunatic who has had, previous to the presence of his insanity, correct moral conceptions, seldom undergoes a change. It is only in those forms of insanity which are readily recognized, and which do not depend for their existence upon hereditary taints or defective or arrested development, that a temporary change may occur. Such change, however, is the exception, and does not interfere with the rule that seldom does a good man in his insanity become an intrinsic scoundrel and fiend.

What the influence on our morality will be, when a coward with these weapons of science in his hand and at his command is more than the equal of one thousand brave men, or a villain with a revolver is, by means of the advantage of the weapon, braver than a man with his fists, is a discussable question. Not only may the bravery of the race be affected but even true courage be arrested. Nobleness of spirit and the chivalry of man may eventually be sacrificed.

It is seldom that any one of you has been placed in the fearful position of one of the members of this Society and of one of the most prominent divines in this city, who were followed by a lunatic, because he entertained the delusive belief that these two gentlemen had conspired to deprive him of the love of a young lady. Fortunately his insanity was manifest, and being brought to me for examination, I eked out the fact that this lunatic had constructed a most systematized series of delusive beliefs, which involved both these gentlemen. I cautioned the lawyer, who happened to be the one who brought the man to me for examination, as to the danger to which he and the clergyman were exposed as long as this individual was at large; for a pistol ball in each of their bodies would most probably have been their reward. I know that these men were the reverse of cowardly either by instinct or by nature, but I am sure they felt relieved when their unwelcome acquaintance was put under restraint, and would have turned away, yes, would have run away, had they met him on the street.

When the lunatic Roth fired the contents of his revolver at Rev. Dr. Hall, the latter gentleman—clergymen are said not to be cowards, as they profess not to fear death—made as great haste as possible to enter his house; and yet I am sure that he is a far braver man than the deluded wretch who attacked him ever could have been, or than most of us are.

There is a class growing up in our community to whose cranial and facial type attention is to be called by a reader—for I have his promise to that effect—later in the year. This class cannot be regarded as lunatics, or, if we must split hairs, as insane, and in whom exact science can find nothing distinctively demonstrating disease or morbid inheritance. To this class belong those individuals for whose fate our generous system of free higher education is responsible; who are educated far beyond the demand for persons who are compelled to fill subordinate positions. They may have been college graduates and students of universities, or even self-educated men. They come under the category of those whom Bismarck called "Die Studenten Proletariat" (the learned proletariat). In this country they are usually born outside of cities, and from the overpopulation which the world is steadily approaching, they follow the tendency to gravitate toward cities and to further crowd already crowded communities, where there is always found a dangerous accumulation of readily procured explosives. Un-

accustomed to contend with the native elements, undergoing a constant attrition with those they attempt to rival, whatever moral education, great or little, which they may have, becomes unbalanced; in addition, being flattered originally by the admiration of their inferiors, they become disgruntled and dissatisfied at their failures, begin to think that the world or some rich man owes them a living, and step by step are led to further believe that they have the right to be the recipients of the wealth of others. They not only seek, but demand, from our millionaires large sums of money, and become candidates, finally, for penal institutions.

To such men belong some of those with a statement of whose exploits and deeds the press is almost daily busied. It probably was some such individual who made the attack upon Mr. Sage, for there is not sufficient evidence to believe that the criminal was insane. There are too many features, apparently, in the case which Mr. Sage himself has failed to explain, and which are not reconcilable with insanity, to come to that conclusion. What is the tenor of the various documents which Mr. Sage received from him, and which he says have been destroyed in the wreck? Had not numerous conversations taken place between the two? Was not Mr. Sage previously aware of the man's errand, when he hurriedly placed the partition of the office between him and his visitor?

No weight should be placed upon the findings of the examination of the brain of Norcross, for two reasons:

First. It has not been sufficiently well established that Norcross was the man who threw the explosive, especially when it is remembered that witnesses testified to the presence of two visitors, one of whom has entirely disappeared, leaving no trace of identification. The latter may have been blown entirely to pieces, and may have been the one who was the immediate agent. Hence the head alleged to be Norcross's may not have been that of the thrower of the infernal instrument, so that the alleged pathological condition of Norcross's brain had nothing to do with the same organ of him who may have put the crime into execution.

Secondly. Even supposing that Norcross threw the explosive, consider, for one moment, the effect of the concussion on the brain of a head torn by the powerful force from its body; what pathological changes are to be ascribed as originally present, and what to the force of the explosion? Every

pathologist who knows anything about the post-mortem changes which a brain undergoes must recognize the fact that a brain which was not examined until fifty-two hours after death was not one whose changes could be relied upon as indicating insanity; for, in a great number of cases where insanity is known to be present, the brain, when removed under the most favorable circumstances, and when examined with all the aids which science has at command, may show no recognizable pathological changes which shall denote that the subject was insane. In the brain of the head examined there were these disturbing factors to contend against, which must cause any definite opinion derived from the examination to be viewed with caution, if not with distrust.

The self-destruction of Jewett, who, after being mangled by a bomb which he exploded in the office of his relatives in the early "seventies," blew out his own brains with a revolver, and the prevention of a similar crime by the timely interference of two of our most prominent alienists, who deftly turned the lunatic, who had sworn to imitate the example of Jewett, into an asylum, should have been remembered in this connection by the forgetful public.

There are two other factors which may determine the commission of these horrible crimes. Both relate to the ease with which the dangerous insane may be released from the asylums.

There is a society composed of apparently misled and misguided individuals, incorporated, I believe, under the name of "The Anti-Kidnapping Society," or some such strange name, whose object is to release those whom they consider sane from being held in hospitals for the insane. This liberation may take place through a habeas corpus and subsequent examination of the person in question before a jury. That society can prove without difficulty the sanity of many a dangerous lunatic, because the evidence of former insanity is not permitted to be adduced. The physicians at the asylum are not allowed to use the records or case book of the institution to show the insanity of the person on the ground that the present mental condition of the subject of the habeas corpus is being examined, and the inquiry does not extend to the previous mental condition.

It would be one of the most difficult tasks for any alienist to satisfactorily demonstrate to our juries the insanity of a person who is, under the instruction of his defender, concealing his

delusions. The records of the asylums should be brought into court as evidence, if sworn to by the physician who compiled them, and be allowed their intrinsic value. This would act as a check to the wholesale liberation of the insane.

Read the statistics in reference to the detention of sane individuals in asylums and discover how very infrequently such a thing occurs under our system. You may find its occurrence frequently spoken of in novels and works of fiction. In real life it only exceptionally takes place. The sooner the public is made aware of this fact and the sooner misguided, ignorant and unbalanced "anti-kidnapping" societies are abolished, the sooner will you free the city from one of the sources of danger.

In this connection I might add that incompetent help at the county asylums of New York and Kings may also be the occasion of many of these crimes.

If Dougherty, the lunatic who had been sent to an asylum because he visited the actress, Mary Anderson, with his insane attentions and followed her everywhere, who wrote innumerable letters concerning his love for her, had not been permitted to escape from Flatbush, the life of one of the physicians of the asylum there would not have been sacrificed and a promising young man would have been still alive to do honor, perhaps, to his profession.

If the man, Armand, who made the life of Mrs. Alexander, of this city, so miserable through his unceasing persecution, his insanity being similar to that of Dougherty, had not been discharged by the authorities on Blackwell's Island because they could not, it seems, detect the fact that he concealed his delusions, which he apparently did in order to get his discharge, Mrs. Alexander would have escaped subsequent terror and misery at the hands of this man. He might have easily made her a victim and killed her. Who would have been, then, responsible? Would the placing of the responsibility on the proper head have restored a lost life?

As the law, I believe, now stands, a police magistrate in this city may commit any lunatic who is brought before him to an asylum, whether the lunatic be guilty of any criminal act or misdemeanor. He does this indirectly by sending the person to the city physicians for an examination. If insanity be diagnosed, the individual follows the regular course of commitment to the county asylum. The fact that the insane man has been guilty of acts which bring him in contact with the law is

indicative that the unfortunate one may become dangerous and should be effectually restrained. Thus some of the criminal insane are removed from their proper place of detention, which should be the *criminal insane asylum*, and subjected to the option of a county asylum superintendent for liberation. Such a release may take place at any time, and the lunatic be once more at large, unrestrained in his plans and schemes against his fellow-man. Explosives are for sale—nitro-glycerine, dynamite, gunpowder and the whole list of dangerous compounds may be readily obtained and no questions asked. Is it to be wondered, therefore, that crimes occur?

The various factors and causes producing these crimes being known, the question of prevention of their occurrence is a simple one to formulate.

First. Restrict and regulate the sale of explosives by an act which shall place them for disposal only in competent hands; which shall make it a misdemeanor for any but the authorized individuals to place them on sale. Allow only such individuals who require their use to receive them after their affidavit, affirming the use to which they are to be put, has been received and filed. Make it a misdemeanor for a person to use these explosives for any other purpose than was sworn to in his affidavit. Make it a felony for anybody, outside of individuals and corporations licensed by the government, to manufacture these dangerous compounds.

These propositions, if followed, would radically check a great part of the danger to which the community may be exposed.

I make no pretense of formulating a law, but simply indicate the requirements upon which legislation in this matter should be based. ||

|| Since writing the above I learned that a bill was introduced before this Congress by Representative McCreary, of Kentucky, embodying these suggestions. It is as follows:

The first section of the bill provides that any person who shall make, compound, buy, sell, or otherwise procure or dispose of any dynamite or nitro or chlorate explosive compound, with intent to use the same unlawfully or for the destruction of life or property within the United States, shall be guilty of felony and liable to imprisonment in the penitentiary for a term of years.

Section 2 provides that no person shall manufacture, compound, buy, sell, procure, dispose of, store, keep, remove, or transport dynamite or nitro or chlorate explosives for any purpose whatever without a written permit duly issued as follows: The officer issuing the permit shall keep

Secondly. Take out of the hands of police magistrates the power of committing the insane, who have been arrested for misdemeanors and felonies, to county or State asylum. Let such individuals be indicted by the Grand Jury, and stand the regular course of trial thereafter. If the petit jury find them insane they can be sent to the criminal insane asylums, where escape is not easy, and where liberation can only follow a due process of law.

Place your county insane asylums under competent management and control. Make the medical positions therein eligible only under strict civil service rules. Let the examining board for these positions be selected, not by political appointment, but by the choice of all the medical societies of the county; they best know the ability of their medical men.

A far better plan, however, would be to turn the county asylums of New York, Kings and Monroe over to the State control, where they belong. This would ensure better management and superintendence and relieve those counties of paying a double taxation.

The foregoing, gentlemen, are a few thoughts hastily jotted down. If the reading of them has not bored you, if they have tended to excite your interest and will serve to elicit discussion, my labor is more than repaid, my expectation more than realized.

a record of the names and residences of persons to whom such permit is issued and the reason or purpose for which such explosive compound is to be used. No permit shall be issued unless the permit officer is satisfied that the purpose for which the explosive is to be used is a lawful one. Persons who do any of the things named without a permit shall be deemed guilty of a misdemeanor and punished accordingly upon conviction. Prosecutions are to be conducted by the United States District Attorneys.

